

REMARKS/ARGUMENTS

Claims 1-19 are pending with Claims 5-8 accorded “withdrawn” status.

No new matter is added.

Present Claim 1 is drawn to a water soluble salt tablet having between 97.5% and 98.8% of NaCl, and in addition, iodine, potassium ions, calcium ions, and magnesium ions, the ions being present as chlorides and or sulphates. The salt tablet of present Claim 1 is formed from dehydrated granules having a particles size distribution between 0.8 mm and 1.1 mm, wherein the Mg ions are present in an amount between 0.4% and 0.9%, the percentages being on a dry weight basis.

The anticipation rejection of Claims 1, 3-4, 9-14 and 17-19 as being unpatentable in view of Narayan is traversed. M.P.E.P. § 2131 describes, in part, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

In the salt tablets of present Claim 1, the Mg ions are present in an amount between 0.4% and 0.9%, the percentages being on a dry weight basis. Narayan does not describe or suggest at least this feature of Claim 1 and the claims depending therefrom. The Office, at page 3 of the Official Action, asserts that based “on Narayan et al. disclosure of the Mg ions would be present about 0% and 2.5% by weight on a dry basis, as calculated based on the weight of the salts” (emphasis added). The Office (see page 3 of the Official Action) bases the above-described calculation on the disclosure of page 6, lines 9-10 of Narayan, that describes a salt comprising “0 to 10% by weight of a soluble chloride or sulphate salt of calcium or magnesium or a mixture thereof.” The page 6, lines 9-10 description of Narayan does not use the word “about.” The Office has therefore improperly added “about” to the

description of Narayan, in conducting its calculations and in making the present anticipation rejection.

M.P.E.P. § 2131.03 (II) describes, in part, “[w]hen the prior art discloses a range which touches or overlaps the claimed range, but no specific examples falling within the claimed range are disclosed, a case by case determination must be made as to anticipation.” “In order to anticipate the claims, the claimed subject matter must be disclosed in the reference with “sufficient specificity to constitute an anticipation under the statute”” (emphasis added). “What constitutes a “sufficient specificity” is fact dependent. If the claims are directed to a narrow range, and the reference teaches a broad range, depending on the other facts of the case, it may be reasonable to conclude that the narrow range is not disclosed with “sufficient specificity” to constitute an anticipation of the claims” (emphasis added).

In the present case, the Office relied upon Narayan to describe a broad range of Mg ions (e.g., 0% to 2.5% by weight on a dry basis of Mg ions). Present Claim 1 describes a narrow range of Mg ions (e.g., 0.4% and 0.9%). Under § 2131.03 (II), the Office has not shown that Narayan discloses the claimed Mg ion range with sufficient specificity. Nowhere in the Official Action does the Office use the words “sufficient specificity” or make a sufficient specificity justification. Applicants additionally submit the Office’s improper attempt to add the word “about” to the lower range of Narayan’s Mg ion range, *supra*, further supports the fact that the Office has not made a showing of sufficient specificity (e.g., the Office is aware that Narayan’s Mg ion range does not disclose the claimed range with sufficient specificity, and thus, has tried to modify Narayan’s range by impermissibly narrowing the range with the word “about”). Withdrawal of the anticipation rejection is requested on this basis alone.

Further, in present Claim 1, the particles size distribution is between 0.8mm and 1.1mm. The Office, at page 3 of the Official Action, relies upon Narayan to provide a particle size distribution of from 0.5 mm to 5 mm (e.g., from 500 microns to 5,000 microns). Applicants submit Narayan does not describe or suggest the particles size distribution of Claim 1 with sufficient specificity to meet the standard for anticipation under § 2131.03 (II). Further, as described at specification page 5, lines 8-13, the “salt [that] can be used for tablet formation has a [particles] size distribution between 0.8 mm and 1.1 mm; in this respect it has been found that a different [particles] size distribution would not enable the powder or granule mass to be compacted to form tablets having the hardness and consistency necessary to obtain the results required of the present invention.” Thus, Narayan does not describe or suggest the particles size distribution of present Claim 1 with sufficient specificity to anticipate present Claim 1, and does not describe or suggest the tableting advantages flowing therefrom. Accordingly, Narayan cannot anticipate or render obvious present Claim 1 and the claims depending therefrom. Withdrawal of the anticipation rejection is requested.

The obviousness rejection of Claims 2 and 5-16 as being unpatentable in view of Narayan and Aquaron is traversed.

As described, *supra*, Narayan does not describe or suggest at least the features of present Claim 1 and the claims depending therefrom that “the Mg ions are present in an amount between 0.4% and 0.9%, the percentages being on a dry weight basis” and that the “particle size distribution is between 0.8mm and 1.1mm.” Aquaron, whom the Office relies provide an “iodine content” (see page 5 of the Official Action), does not remedy the deficiencies of Narayan. Withdrawal of the obviousness rejection is requested on this basis alone.

Additionally, Applicants traverse the obviousness rejection on the basis of superior and unexpected results. The tablet of present Claim 1 is an aggregate of a plurality of dehydrated granules having the particle size distribution between 0.8 mm and 1.1 mm. The tablet has unique advantages that flow from the dehydrated granules. For example, the salt tablet of present Claim 1 is “easily dissolved in water” (see page 3, line 7, of the originally filed specification) and is able to be “easily handled and stored, without undergoing damage or breakage” (see page 3, lines 4-5, of the originally filed specification).

As described at specification page 2, lines 10-13, Narayan obtains “granules whose consistency is surely poor and which – especially – have a low solubility into water to which the granulated salt composition has to be added when it is used.” In contrast, the salt tablets of present Claim 1 are “easily dissolved in water” (see page 3, line 7, of the originally filed specification) and are able to be “easily handled and stored, without undergoing damage or breakage” (see page 3, lines 4-5, of the originally filed specification). Based on the disclosures of Narayan and Aquaron, the superior results, *supra*, are also unexpected results. Applicants submit these superior and unexpected results are exactly the type of secondary consideration envisioned by the M.P.E.P. to address a *prima facie* case of obviousness.

Withdrawal of the obviousness rejection is requested on this basis alone.

Applicants request rejoinder of the withdrawn claims, and submit the present application is now in condition for allowance. Early notification to this effect is earnestly solicited.

Respectfully submitted,

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